

Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LONNIE LILLARD,

Defendant.

Case No. CR16-007RSM

**ORDER DENYING MOTION TO  
RECUSE**

THIS MATTER comes before the Court on pro se Defendant's Motion to Recuse District Court Judge Ricardo Martinez from Further Proceedings. Dkt. #354.

Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any proceeding in which his impartiality "might reasonably be questioned." Federal judges also shall disqualify themselves in circumstances where they have a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C. § 455(b)(1).

Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, a recusal of a federal judge is appropriate if "a reasonable person with knowledge of all the facts would conclude that

1 the judge's impartiality might reasonably be questioned." *Yagman v. Republic Insurance*,  
2 987 F.2d 622, 626 (9<sup>th</sup> Cir.1993). This is an objective inquiry concerned with whether  
3 there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*,  
4 923 F.2d 731, 734 (9<sup>th</sup> Cir.1992); *United States v. Conforte*, 624 F.2d 869, 881 (9<sup>th</sup>  
5 Cir.1980). In *Liteky v. United States*, 510 U.S. 540 (1994), the United States Supreme  
6 Court further explained the narrow basis for recusal:

7 [J]udicial rulings alone almost never constitute a valid basis for a bias or  
8 partiality motion. . . .[O]pinions formed by the judge on the basis of facts  
9 introduced or events occurring in the course of the current proceedings, or of  
10 prior proceedings, do not constitute a basis for a bias or partiality motion  
11 unless they display a deep seated favoritism or antagonism that would make  
12 fair judgment impossible. Thus, judicial remarks during the course of a trial  
13 that are critical or disapproving of, or even hostile to, counsel, the parties, or  
14 their cases, ordinarily do not support a bias or partiality challenge.

15 *Id.* At 555.

16 In the instant motion, Defendant fails to allege sufficient actions and/or behavior  
17 by the Court demonstrating bias towards him. As noted above, negative rulings by the  
18 Court almost never constitute a basis for bias, nor do opinions formed by the judge on the  
19 basis of events occurring in the course of proceedings.

20 Accordingly, the Court hereby finds and ORDERS:

- 21 1. Defendant's Motion to Recuse (Dkt. #354) is DENIED.
- 22 2. In accordance with LCR 3(e), that this Order is referred to the Honorable  
23 Benjamin H. Settle, the senior active judge in this District, for review of this  
decision.

1 3. The Clerk is directed to provide a copy of this Order to U.S. District Judge  
2 Benjamin H. Settle.

3 DATED this 1<sup>st</sup> day of November, 2019.  
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7 RICARDO S. MARTINEZ  
8 CHIEF UNITED STATES DISTRICT JUDGE  
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